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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Second Application by BellSouth Corporation,	)	
BellSouth Telecommunications, Inc. and BellSouth	)	CC Docket No. 98-121
Long Distance, Inc. For Provision of In-Region	)	
InterLATA Services in Louisiana	)	

COMMENTS OF KMC TELECOM INC. IN OPPOSITION TO BELLSOUTH'S APPLICATION FOR INTERLATA AUTHORITY IN LOUISIANA

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Dated: August 4, 1998

Commenter: KMC Telecom Inc.
Applicant: BellSouth
State: Louisiana
Date: August 4, 1998

SUMMARY

BellSouth's application for interLATA authority should be denied as premature. BellSouth has failed to demonstrate that the Louisiana local exchange market is fully and irreversibly open to competition or that it has met all of the requirements of Section 271 of the Communications Act.

BellSouth does not qualify to proceed under Section 271(c)(1)(A) of the Act based on the presence of an unaffiliated facilities-based wireline competitive local exchange carrier providing service to both residential and business customers. KMC Telecom Inc. is a competitive local exchange carrier that provides service in Baton Rouge and Shreveport, Louisiana over its own facilities and through the resale of BellSouth's local exchange service. The only customers that KMC serves exclusively or predominantly using its own facilities are business customers. KMC serves a small number of residential customers and less than 200 business customers through the resale of BellSouth's service. To the extent that BellSouth relies on KMC's presence in the market to demonstrate that it qualifies to proceed with its application to provide interLATA services under Track A, that reliance is misplaced.

BellSouth's reliance on the presence of PCS providers in the Louisiana market for Track A purposes is similarly misplaced. BellSouth's own evidence confirms that the vast majority of PCS subscribers continue to view PCS as a complement to, rather than a substitute for, their

wireline service. Moreover, BellSouth's survey results show that the percentage of customers subscribing to PCS as an alternative to wireline service actually declined between August 1997 and April 1998.

Even if the Commission were to find that BellSouth has met the threshold requirements of Track A, its application still must be denied because BellSouth has not fully implemented the 14-point competitive checklist. Most significantly, BellSouth does not yet provide nondiscriminatory access to its operations support systems such that competing carriers are able to provide service to their customers in substantially the same time and manner as BellSouth provides service to its retail customers. As the Commission has found in the previous Section 271 cases, this is a fatal deficiency – one that seriously impairs the ability of new entrants to compete for end users. In addition, BellSouth does not comply with the statutory pricing standards for unbundled network element combinations (checklist item (ii)). Finally, BellSouth's refusal to pay reciprocal compensation for Internet service provider traffic violates both the terms of its interconnection agreement with KMC and checklist item (xiii).

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KMC Telecom Inc.("KMC"), through undersigned counsel, hereby submits its comments in opposition to the second application filed by BellSouth Corporation, BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. ("BellSouth") for in-region interLATA authority in Louisiana. BellSouth has not carried its burden of proving that it has met all of the requirements of Section 271 of the Communications Act of 1934, as amended, 47 U.S.C. §271 (the "Act"), or that the Louisiana local exchange market is fully and irreversibly open to competition.

I. INTRODUCTION

KMC is a competitive local exchange carrier, authorized to provide service in 17 states, including the BellSouth states of Alabama, Florida, Georgia, Louisiana, North Carolina, and

South Carolina. KMC provides facilities-based local exchange service to business customers in Shreveport and Baton Rouge, Louisiana, and also resells BellSouth's local exchange service to business customers and a small number of residential customers in those markets. As a new entrant fighting for a share of the local exchange market dominated by BellSouth, KMC needs access to BellSouth's network in order to serve its customers. Thus, KMC has a strong interest in ensuring that BellSouth complies with each of the competitive checklist items in Section 271 of the Act.

Unfortunately, BellSouth has not achieved compliance with Section 271. The Louisiana local exchange market is far from being fully and irreversibly open to competition.. BellSouth has failed to make the threshold showing under Section 271(c)(1)(A) ("Track A") that a competing carrier is providing facilities-based local exchange service to both residential and business customers in Louisiana. In addition, BellSouth has failed to demonstrate that it has fully implemented the 14-point competitive checklist set forth in Section 271(c)(2)(B). For these reasons, BellSouth does not yet qualify to provide in-region interLATA services in the state of Louisiana and its application must be denied.

II. BELLSOUTH DOES NOT MEET THE REQUIREMENTS OF TRACK A BECAUSE IT HAS NOT SHOWN THAT COMPETING CARRIERS ARE PROVIDING FACILITIES-BASED SERVICE TO RESIDENTIAL CUSTOMERS IN LOUISIANA.

BellSouth bears the burden of proof with respect to all factual issues arising under Section 271. *Application of Ameritech Michigan Pursuant To Section 271 Of The*

Communications Act of 1934, As Amended, To Provide In-region, InterLATA Services In Michigan, Memorandum Opinion and Order, 12 FCC Rcd 20543, at ¶44 (1997). BellSouth has not met its burden of proving that there are one or more local competitors providing facilities-based service to both residential and business customers in Louisiana. Accordingly, its application does not meet the requirements of 47 U.S.C. § 271(c)(1)(A).

In order to satisfy the requirements of Track A, a Bell Operating Company must show that it has entered into one or more binding agreements that have been approved under Section 252 of the Act, pursuant to which it is providing access and interconnection to its network facilities to one or more unaffiliated competing providers of telephone exchange service. The competing carriers must provide such telephone exchange service to both residential and business subscribers either exclusively over their own facilities or predominantly over their own facilities in combination with the resale of the telecommunications services of another carrier. 47 U.S.C. § 271(c)(1)(A).

BellSouth identifies six wireline competitive local exchange carriers ("CLECs") with which it has approved interconnection agreements that it claims "currently provide facilities-based local telephone service in Louisiana." (BellSouth Brief at 4.) Of those six CLECs, BellSouth identifies only one -- KMC -- that allegedly provides facilities-based service to residential customers. The truth is, however, that KMC does *not* provide facilities-based service to any residential customers in Louisiana. KMC serves residential customers in Louisiana solely through the resale of BellSouth's local exchange service. *See* Affidavit of Wendell Register (attached as Exhibit 1), at ¶3.

The number of customers BellSouth attributes to KMC is also greatly exaggerated. BellSouth erroneously contends that KMC "provides facilities-based service to hundreds of business customers and a small number of residential customers" and "serves thousands of residential and business customers via resale service." (BellSouth Brief at 5.) In reality, KMC provides *facilities-based* service to less than 30 business customers and *no residential* customers in Louisiana. Moreover, KMC resells BellSouth's local exchange service to less than 200 customers, the vast majority of whom are business customers. (Register Affidavit, at ¶4.)

BellSouth cannot rely on KMC's presence in the market to demonstrate that at least one competing carrier is providing telephone exchange service to residential customers exclusively or predominantly over its own facilities because KMC is not providing facilities-based service to any residential customers in Louisiana. BellSouth has failed to prove that it meets the requirements of Track A based on the presence of facilities-based wireline competitors.

III. PCS PROVIDERS DO NOT QUALIFY AS COMPETING PROVIDERS FOR PURPOSES OF TRACK A.

Because BellSouth cannot satisfy Track A based on the presence of wireline competitors in the Louisiana market, it argues in the alternative that the presence of PCS providers satisfy the statutory standard. BellSouth contends that its interconnection agreements with five PCS providers qualify it to proceed under Track A (BellSouth Brief at 9-10). Again, BellSouth has jumped the gun.

Although Section 271 does not preclude the Commission from considering the presence of PCS providers, BellSouth cannot rely on PCS providers to satisfy the requirements of Track A unless BellSouth proves that PCS constitutes a competitive alternative to its wireline service. The Commission outlined the showing an RBOC relying on PCS providers would have to make to qualify under Track A in its Memorandum Opinion and Order denying BellSouth's first Louisiana Section 271 application:

> We also emphasize, however, that an applicant must demonstrate that a PCS provider on which the applicant seeks to rely to proceed under Section 271(c)(1)(A) offers services that both satisfies the statutory definition of "telephone exchange service" in section 3(47)(A) and competes with the telephone exchange service offered by the applicant in the relevant state. In previous orders, the Commission has stated that the use of the term "competing provider" in section 271(c)(1)(A) suggests that there must be "an actual commercial alternative to the BOC."

Application By BellSouth Corporation, et al., Pursuant To Section 271 Of The Communications Act of 1934, As Amended, To Provide In-Region, InterLATA Services In Louisiana, Memorandum Opinion and Order, 13 FCC Rcd 6245, at ¶ 73 (1998) ("*Louisiana* Order"). BellSouth has failed to make the requisite showing.

BellSouth cites a survey conducted by M/A/R/C Research in support of its contention that PCS offers a competitive alternative, rather than simply a supplement, to wireline service.

(BellSouth Brief at 11-12.) M/A/R/C interviewed a total of 202 PCS customers in New Orleans in April 1998. The 1998 survey results were compared to the results of a similar survey conducted by M/A/R/C in August 1997. (BellSouth Application, Appendix A, Tab 6, at 2.)

A fundamental flaw in the M/A/R/C survey is that the respondents were not randomly selected. Rather than use a random selection process, M/A/R/C placed advertisements in a daily newspaper and a weekly entertainment publication inviting PrimeCo and Sprint PCS customers in New Orleans to call an 800 number to participate in a survey. (Appendix A, Tab 6, at 2.) Because the survey respondents were self-selected, rather than randomly selected, there can be no assurance that the respondents (or their responses to the survey questions describing their usage patterns or their reasons for choosing PCS) are representative of all PCS customers in Louisiana.

Moreover, the survey shows that 75% of the respondents subscribed to PCS because they wanted a mobile option in addition to their wireline service or because they wanted a mobile option other than their current cellular service. (Appendix A, Tab 6, at 6.) These results support the conclusion that the vast majority of PCS subscribers continue to use PCS as a supplement to, rather than a substitute for, their wireline service.

The survey results also show that the percentage of PCS users who view PCS as a replacement for wireline service actually declined between August 1997 and April 1998. While BellSouth argues that a "significant number" -- 6% -- of the PCS users "subscribed to their wireless service as a direct substitute for BellSouth's wireline service" when initiating telephone service (BellSouth Brief at 12), it neglects to mention that the percentage of PCS customers who subscribed to PCS, instead of wireline, for their initial telephone service declined by 40% between the August 1997 survey and the April 1998 survey.[1]

BellSouth also places great weight on the fact that *26%* of the survey respondents reported that they currently rely on PCS as their primary telephone service (BellSouth Brief at 12), without mentioning that the August 1997 survey reported that *29%* of respondents relied on PCS as their primary telephone service. This represents a 10% decline in the percentage of PCS subscribers relying on PCS as their primary telephone service between August 1997 and April 1998. Contrary to BellSouth's assertion, therefore, its own survey results do not demonstrate that "[s]ubstitution of PCS for wireline telephony has increased significantly since BellSouth's first section 271 application for Louisiana." (BellSouth Brief, at 13.) Based upon the survey results, one could just as easily conclude that as consumers have gained more experience with PCS, they are less likely to substitute PCS for their wireline service.

The bias resulting from the self-selection of the respondents as well as the actual survey results themselves undermine the credibility of BellSouth's claims that PCS currently presents an actual commercial alternative to BellSouth's wireline service. Having failed to demonstrate

[1] In August 1997, M/A/R/C reported that 10% of PCS users subscribed to PCS, rather than wireline, for their initial telephone service. In April 1998, that number dropped to 6%. (Appendix A, Tab 6, at 8.)

that PCS carriers qualify as competing providers, BellSouth has not met the threshold requirements necessary to proceed under Track A. For this reason, the Commission should deny BellSouth's application for interLATA relief.

IV. BELLSOUTH DOES NOT MEET CHECKLIST ITEM (ii) – NONDISCRIMINATORY ACCESS TO NETWORK ELEMENTS

Even if BellSouth had satisfied the requirements of Track A (which it has not), its application still must be denied because it has not met its burden of proving that it is offering access and interconnection in compliance with each of the competitive checklist items. In order to meet competitive checklist item (ii), BellSouth must show that it is providing "[n]ondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1)." 47 U.S.C. §271(c)(2)(B)(ii). Section 251(c)(3) imposes on incumbent LECs the obligation to make network elements available on an unbundled basis ("UNEs"). Section 252(d)(1) mandates that the rates charged for such network elements be cost-based. BellSouth's decision to price UNE combinations at non cost-based rates is inconsistent with its obligations under checklist item (ii).

Where a CLEC orders from BellSouth "a preassembled combination of UNEs that replicates a [BellSouth] retail service," BellSouth charges the CLEC the retail rate for the finished service less the avoided cost discount, rather than the cost-based rates for the individual elements. (BellSouth Varner Affidavit, at ¶¶ 74, 80.) BellSouth's refusal to charge cost-based rates for unbundled network elements as required by Section 252(d)(1) of the Act precludes a finding that it is in compliance with checklist item (ii).

The Commission addressed this same issue in its Memorandum Opinion and Order denying BellSouth's 271 Application for South Carolina. There, the Commission stated that it was troubled "that BellSouth is not charging cost-based rates for unbundled network elements that, when combined, can be used to offer a service equivalent to a BellSouth retail service." The Commission "emphasize[d] that BellSouth is obligated to charge cost-based rates for unbundled network elements, even if they replicate a BellSouth service when combined" and stated that it would examine carefully in future applications any allegations that BellSouth was not charging cost-based rates for unbundled elements. *Application By BellSouth Corporation, et al., Pursuant To Section 271 Of The Communications Act Of 1934, As Amended, To Provide In-Region, InterLATA Services In South Carolina,* Memorandum Opinion and Order, 13 FCC Rcd 539, at ¶¶ 210, 211 (1997) (*South Carolina* Order).

Despite the Commission's admonition, BellSouth persists in its refusal to make unbundled elements available at cost-based rates when those elements are combined to replicate a BellSouth retail service. The Commission should affirm the determination reached in the *South Carolina* Order that BellSouth's UNE pricing policy is inconsistent with its obligations under Section 252(d)(1) of the Act. BellSouth cannot meet the requirements of checklist item (ii) so long as it continues to treat UNE combinations as resale products for pricing purposes.

V. BELLSOUTH'S PROVISION OF OSS TO COMPETITIVE CARRIERS DOES NOT COMPLY WITH THE CHECKLIST.

In an effort to hasten the development of competition in the local exchange market, Congress has imposed on incumbent LECs the obligation to make their networks available to new entrants. 47 U.S.C. § 251. In order to be able to use the ILECs' network elements and facilities effectively, new entrants must also have nondiscriminatory access to the ILECs' systems, databases and personnel that support those elements and facilities. Nondiscriminatory access to the incumbent LECs' operations support systems ("OSS") is critical to a new entrant's ability to succeed in the local exchange market. The Commission properly has recognized that:

> To compete effectively in the local exchange market, new entrants must be able to provide service to their customers at a quality level that matches the service provided by the incumbent LEC. A competing carrier that lacks access to operations support systems equivalent to those the incumbent LEC provides to itself, its affiliates or its customers, "will be severely disadvantaged, if not precluded altogether, from fairly competing."

South Carolina Order at ¶ 83; *see also Louisiana* Order at ¶20 (because the incumbent LEC owns and controls the OSS, competing carriers' entry into the local market depends upon the incumbent LEC's willingness and ability to make its OSS available in a nondiscriminatory manner). "Properly functioning operations support systems allow a carrier to receive, process and install customers' orders promptly and accurately." *Louisiana* Order at ¶20.

In rejecting BellSouth's previous applications for interLATA authority in the states of South Carolina and Louisiana, the Commission found that there were major deficiencies in the manner in which BellSouth provided access to its operation support systems and that these deficiencies precluded new entrants from being able to compete effectively with BellSouth. Specifically, the Commission concluded that competitors did not have access to basic OSS functionalities at parity with BellSouth's own retail operations. *Louisiana* Order at ¶23; *South Carolina* Order at ¶88. BellSouth has not yet remedied all of the shortcomings in its OSS such that competing carriers are able to provide service to their customers in substantially the same time and manner that BellSouth provides such service to its own retail customers.

A. Order Status Notices

Among the reasons previously cited by the Commission for finding BellSouth's OSS inadequate was its failure to provide competitors with information about the status of their orders in substantially the same time and manner as it provides such order status notices to itself. "Order status notices include, at a minimum, order receipt, order rejection, firm order confirmation, order jeopardy and order completion notices." *Louisiana* Order at ¶30 and n. 104. BellSouth has not yet adequately addressed this serious deficiency as KMC's experience demonstrates. *See* the attached affidavits of Bradley Pipes (Exhibit 2), KMC's City Director in Baton Rouge, and Lynn Davis (Exhibit 3), KMC's Customer Care Representative in Shreveport.

1. Order Receipt Notification

According to BellSouth's Interval Guidelines, BellSouth is supposed to respond to respond to an LSR within 48 hours with either a Firm Order Confirmation ("FOC") or a request for clarification. (Davis Affidavit at ¶4; Pipes Affidavit at ¶5). When KMC faxes orders to

BellSouth's Local Carrier Service Center ("LCSC"), it must often follow up with a telephone call to confirm that the fax was received, even though it has a confirmation on its end that the fax went through successfully. (Davis Affidavit at ¶3.) KMC has adopted this practice of follow up telephone calls because it does not regularly receive FOCs on a timely basis. (*Id.*; Pipes Affidavit at ¶13.) Oftentimes when KMC calls the LCSC to check on the status of an order, the BellSouth representatives claim that they did not receive the order. KMC has had to fax orders to the LCSC two or three times before an LCSC representative will confirm receipt. (Davis Affidavit at ¶3.)

After many complaints to BellSouth about lost orders, BellSouth invited KMC to participate in a trial program designed to track orders coming into the LCSC by fax. Under this program, the LCSC is supposed to immediately fax back to the ordering CLEC a notification containing the PON number and the date and time of receipt of the order. While BellSouth's intentions may have been good in instituting this program, the program has not worked in practice. BellSouth frequently does not provide notification to KMC that an order has been received at the LCSC until after the order has been completed. After BellSouth has filled an order, there is no point in notifying KMC that the order was received. BellSouth's failure to provide timely notification to KMC, however, forces KMC to continue to follow up with telephone calls to the LCSC to confirm that faxed orders have been received. (Davis Affidavit at ¶4.)

2. Firm Order Confirmations

The FOCs that KMC does receive from BellSouth often show incorrect order numbers or are faxed to KMC offices in other BellSouth states, which delays receipt and causes KMC Louisiana personnel to expend considerable time tracking their orders. (Pipes Affidavit at ¶13; Davis Affidavit at 11.) When KMC uses LENS to place orders, the misdirected faxes seem to be the result of the manner in which "contact" information is entered on the order. There is a field on the LENS screen to be completed with a company contact name and telephone number. BellSouth has informed KMC that only one contact name and telephone number may be entered per company. This presents a serious problem for KMC because it operates in several BellSouth states. When the "contact" screen comes up for KMC Louisiana orders, it is automatically populated with the name and telephone number of a KMC employee located in KMC's Duluth, Georgia office. This contact information cannot be overwritten when an order is placed from Louisiana. As a result, BellSouth often forwards FOCs and clarifications for orders originating in Louisiana to the KMC office in Duluth, Georgia. In addition, the KMC Georgia telephone number is transferred to the BellSouth technicians' service orders. Thus, the only contact number the technicians servicing Louisiana orders have is for a KMC employee in Georgia, who obviously is not in a position to answer their questions about an order when they call from the field. (Davis Affidavit at ¶11.)

KMC has complained to BellSouth about this situation on numerous occasions. To address the problem, BellSouth has told KMC to enter the name and telephone number of the person placing the order in the "remarks" section of the contact screen with instructions to contact that individual in the event BellSouth has questions about the order. While KMC has followed BellSouth's suggestion, FOCs and clarifications for Louisiana orders continue to be sent to the KMC office in Georgia. Moreover, while the Louisiana contact name is often transferred to the BellSouth technicians' service orders, the telephone number is not. Consequently, BellSouth technicians continue to call KMC's office in Georgia when they have questions about an installation for a Louisiana customer. (Davis Affidavit at ¶12.)

3. Order Rejections

When it reviewed BellSouth's first Louisiana 271 application, the Commission concluded that BellSouth had failed to demonstrate that it was offering competing carriers the ability to order services for resale on a nondiscriminatory basis, in part because the rejection rate for resale orders was far higher than the rejection rate for retail orders. *Louisiana* Order at ¶24. Although BellSouth contends that it has now eliminated the disparity in order rejection rates, the facts show otherwise.

As of May 1998, according to BellSouth, approximately 96% of its own retail residence orders and approximately 83% of its retail business orders flow through its electronic ordering systems and databases without the need for manual intervention. (BellSouth Stacy OSS

Affidavit at ¶121.) In contrast, only 72% of CLEC resale orders flowed through the EDI and LENS systems without human intervention. *Id.* While the CLEC flow through rates have improved significantly since BellSouth's original Louisiana filing, they are still substantially poorer than the flow through rates for BellSouth's own retail orders.

The Commission appropriately has concluded that it is virtually impossible for orders that are processed manually to be completed in the same amount of time as orders that flow through electronically without the need for manual intervention. Until there is parity in the flow through rates for CLEC orders and the flow through rates for BellSouth orders, there can be no finding that BellSouth is providing CLECs nondiscriminatory access to its ordering systems. *Louisiana Order* at ¶28.

BellSouth contends that when CLEC-caused errors are removed from the base of valid orders, approximately 82% of CLEC orders flow through. (BellSouth Stacy OSS Affidavit at ¶121.) As the Commission noted in the *South Carolina* and *Louisiana* Orders, however, BellSouth cannot blame the greater rejection rates experienced by CLECs on CLEC errors in the absence of evidence detailing how responsibility for the errors is assigned to CLECs as well as evidence that would allow a determination as to whether the CLEC errors resulted from BellSouth's own failure to provide adequate information concerning how its internal systems process orders. *South Carolina* Order at ¶108; *Louisiana* Order at ¶29.

KMC's experience with order rejections confirms that BellSouth is not yet providing CLECs equivalent access to its operations support systems. BellSouth does not routinely provide KMC timely notice that its orders contain errors and, as noted above, the order rejection notices it does provide are often sent to the wrong KMC office. In addition, KMC's orders are put into error status in many cases because of mistakes on BellSouth's part or BellSouth's failure to notify KMC in advance of changes it has adopted in the procedures for processing orders. KMC has found that upwards of 50% of the clarifications BellSouth issues have resulted from errors in BellSouth's own records or from mistakes on the part of its service representatives. (Pipes Affidavit at ¶¶ 5-6.)

The processing of KMC's manual service orders is frequently delayed due to BellSouth's repeated requests for "clarifications." For example, BellSouth recently waited four business days to place a KMC order requesting that the customer's service be switched "as is" into clarification The reason for the clarification was that the order allegedly contained the wrong Yellow Pages heading code. BellSouth, however, had made the initial Yellow Pages code assignment for the customer and KMC's order did not request any change in the directory listing. To the extent that the code assignment was incorrect, BellSouth, not KMC, was the cause of the error. (Pipes Affidavit at ¶6.)

In another instance, BellSouth waited four days to request clarification on a KMC order for a new remote call forwarding service. The reason for the clarification was that KMC had specified a local primary intrastate interexchange carrier (PIC) for the customer's intrastate toll calls. KMC had to explain to the BellSouth service representative that a customer may select a PIC for intrastate as well as interstate toll calls. (Pipes Affidavit at ¶ 7.)

On another recent occasion, KMC placed an order for BellSouth's "Flexserv" service for one of its customers. Despite the fact that "Flexserv" is a tariffed service that should be readily available for resale, BellSouth's LCSC had no procedures in place for processing resale orders for this service, nor could it provide set-up guidelines for KMC's personnel. As a result, it took over seven days for BellSouth to accept KMC's order for processing – considerably longer than would have been the case had the customer ordered the service directly from BellSouth. The unwarranted delay greatly inconvenienced KMC's customer and reflected poorly on KMC, even though KMC was not at fault. (Pipes Affidavit at ¶10.)

KMC has also been extremely frustrated by BellSouth's practice of serializing its requests for clarifications. Instead of identifying all errors on an order at one time, BellSouth has issued multiple clarifications on individual orders, with each clarification specifying a different error, all of which could have been identified on the initial review of the order. Since each clarification starts the order processing period anew, BellSouth's practice can cause provisioning to be delayed for weeks. (Pipes Affidavit at ¶9; Davis Affidavit at ¶5.) In one very recent example, it took BellSouth twenty days -- from June 30, 1998 to July 20, 1998 -- to provision one flat-rate business line for a KMC customer. (Pipes Affidavit at ¶9.)

BellSouth has also failed to notify KMC in advance when it changes its procedures for processing orders. As a result, BellSouth has rejected orders submitted by KMC that did not comply with new procedures of which KMC had no notice. (Davis Affidavit at ¶6.) The processing delays -- and inconvenience to KMC's customers -- caused by the order rejections could have been avoided had BellSouth properly informed KMC of the change in procedures.

Many of KMC's electronic resale orders fall into error status because KMC is unable to enter the appropriate codes using the LENS program. For example, BellSouth offers its end users the option of paying an additional monthly charge to cover the cost of inside wire maintenance. The code for this service is "TDG." There is no field on the LSR screen, however, for KMC to enter the TDG code. Consequently, when KMC submits an electronic order to convert a BellSouth customer that subscribes to this service, the order falls into error status because it does not include the TDG code. (Davis Affidavit at ¶10.)

4. Jeopardy Notices

The Commission has correctly determined that it is critical for a BOC to provide a competing carrier with timely notice that it will not be able to meet a scheduled due date so that the competing carrier can inform its customer of the delay before it occurs. *Louisiana* Order at ¶39. BellSouth does not routinely provide timely jeopardy notices to KMC. When BellSouth does not notify KMC that it will not be able to meet a scheduled due date, KMC cannot alert its customers in advance that the due date will have to be rescheduled. KMC often learns for the first time that an order has not been completed as scheduled when it receives a telephone call from an irate customer wanting to know why the service was not installed on the date promised. (Davis Affidavit at ¶9.)

Many missed appointments seem to be caused by the BellSouth technician's inability to gain access to the KMC customer premises. Although LENS enables KMC to enter information listing the name and telephone number of the individual BellSouth needs to contact for entry into the end user's premises in the event a premises visit is necessary, this information is not transferred onto the service orders that are given to the technicians making the premises visits. BellSouth technicians are often unable to complete orders on the scheduled due dates because they do not have the information they need to gain access to the customers' premises despite the fact that KMC provided the necessary information when the orders were placed. (Davis Affidavit at ¶[illegible].)

After KMC discovered that many missed appointments were caused by the fact that the premises access information was not being transferred from the LSRs to the technicians' service orders, it instituted the practice of calling the LCSC upon receipt of a FOC to again provide the access information to be entered on the service order. While this has cut down on the number of instances that BellSouth technicians have been unable to gain entry to KMC customer premises, it is a time consuming process that could be entirely avoided if the LCSC simply transferred the access information from the LSR to the technicians' service orders. (Davis Affidavit at ¶ 8.)

5. Order Completion Notices

BellSouth never issues order completion notices to KMC, which places KMC in the embarrassing position of having to query its customers directly to determine whether an order has been filled. (Pipes Affidavit at ¶13.) Obviously, BellSouth does not have to go through this exercise.

The Commission has correctly concluded that "[i]t is critical to a competing carrier's ability to compete through the use of resale services that it receive information concerning the status of its customers' orders in substantially the same time and manner as the BOC provides such information to its retail operations." *South Carolina* Order at ¶115. BellSouth's failure to provide prompt and accurate order status notices to KMC impairs KMC's ability to compete effectively in the Louisiana local exchange market. To the extent that KMC lacks access to order status information, it cannot keep its customers informed of expected due dates or the need to reschedule due dates. The inability to provide such basic information to its customers reflects poorly on KMC, despite the fact that KMC is not at fault.

B. Customer Conversion Issues

Another frequent problem that KMC has encountered on resale orders arises from BellSouth's failure to coordinate conversion and billing dates in accordance with KMC's instructions. Many of KMC's resale orders request that the customer's service be switched "as is," which should involve no more than an accounting change to reflect that customer billing responsibility is being transferred to KMC. For these and other types of resale orders, KMC specifies an effective billing date ("EBD") – the date on which BellSouth is to cease billing the customer and KMC is to begin. BellSouth often ignores these EBDs, which undermines one of KMC's important competition offerings.

In cases where KMC wins multiple accounts belonging to a single customer, it offers the customer the option of placing all of the accounts on the same convenient billing cycle. If the customer chooses this option, KMC specifies a single EBD for all of the accounts that are to be converted to KMC. To the extent that BellSouth disregards the EBD, however, the accounts are cut-over on a staggered basis, leaving KMC no choice but to bill the customer in the same staggered fashion, at least for an initial period until the billing cycles can be readjusted. On one recent occasion, KMC submitted orders on the same day to convert 33 different accounts for one customer on a "switch as is" basis. Rather than convert the accounts simultaneously, BellSouth converted the accounts on 10 different dates, which meant that for a period of time, the customer received bills from BellSouth for some accounts and bills from KMC for other accounts. (Pipes Affidavit at ¶11.) Such billing problems cause customer confusion and a loss of good will toward KMC.

BellSouth's handling of customer calling card conversions is also problematic. When resale customers are switched to KMC, BellSouth cancels their personal identification numbers ("PINs") and reissues new ones for KMC's service. This seemingly straightforward process can